

lowing questions to Minister Cooper, Attorney-General ad interim:

First—Are you aware that the two Inter-island steamship companies are in the habit of discriminating between different shippers in the matter of freight rates upon similar kinds of freight?

Second—Have said companies, being common carriers, any legal right to so discriminate?

Third—Can the Executive do anything to stop such discrimination?

A communication from the Senate announced concurrence of that body in certain House amendments to Senate Bill No. 9, relating to internal taxes. The following sections were not concurred in and a conference committee was asked for: Sections 19, 31, 76, 83, 84, 85, 92 and 97.

Another communication announced transmission of certified Senate Bill No. 47, relating to ports of entry; also the information that the report of the Joint Conference Committee, relating to House Bill No. 6, extending certain streets in Honolulu, had been adopted. Accompanying the report was the report of the Commission on Land Transfer and Registration of Deeds, no action having been taken by the Senate other than receiving same.

Senate Bill No. 41, relating to unpaid claims, passed third reading.

House Bill No. 12, relating to land deleterious to public health, taken up in second reading with the report of the committee. Passed second reading with three new sections introduced by Minister Cooper. Ordered typewritten and read third time when reported upon.

Rep. Richards spoke of the sale of old Hawaiian (uncancelled) stamps as being a source from which the Government could obtain a great deal of revenue. The following figures were given of stamps in the possession of the Government:

Surcharged postage stamps and envelopes on hand.

Packages contain 250 sheets to a package and 50 stamps to a sheet.

Thirty-eight packages 2-cent postage stamps, \$9,500.

Twenty-five packages 5-cent postage stamps, \$12,500.

Seven packages 10-cent postage stamps, \$7,000.

Two thousand one hundred and thirty-five sheets 12-cent postage stamps, \$12,810.

Two thousand and seventy-four sheets 15-cent postage stamps, \$18,672.20.

Five hundred and five sheets 50-cent postage stamps, \$12,625.

Eight hundred and seventy-five sheets \$1 postage stamps, \$43,750.

Twelve thousand 5-cent envelopes, \$600.

Ten thousand 10-cent envelopes, \$1,000.

Total, \$123,383.20.

When Rep. Richards read his figures he had the total amount that the Government would receive summed up to \$283,733.20. This was an amount that made the eyes of the Representatives start from their sockets, but when Minister Cooper looked over the figures he found that 12,900 5-cent envelopes would amount to \$645,000; also, that 10,500 10-cent envelopes would amount to \$1,050,000; and not \$105,000. The true sum total was found to be \$123,383.20, and not \$283,733.20, which is just \$160,350 more.

Rep. Robertson reported for the Judiciary Committee on House Bill No. 32, as follows:

"The object of the bill is to provide for the waiver of jury in criminal cases under the provisions of the Constitution and to allow appeals, jury being waived, to be tried by the Circuit Judges.

"We have prepared a substitute bill which we submit herewith with the recommendation that it pass."

A motion was made and carried that the time set for the destruction of postage stamps be set for December 31st, 1896.

AFTERNOON SESSION.

House Bill No. 25, relating to the provision of revenue for the Government by the assessment and collection of tax on income, announced on the order of the afternoon.

Rep. Hala moved that the exemption in Section 1 be reduced from \$2,000 to \$1,000.

Rep. Rycroft spoke against such action, setting for the fact that hardship would surely result.

Rep. Rycroft said that the income tax bill had not been introduced for revenue only. It was merely to get the thing in working order.

Rep. Richards was sure that the member who made the motion to reduce the exemption limit had not studied the matter as carefully as the committee, who had given their undivided attention to it. Merchants of Honolulu would be unable to stand the result of such action. The income tax law, in his mind, was the tax law of the future which would take the place of all other laws of its kind. The speaker hoped that the motion would be withdrawn.

Upon being put to vote, there was an overwhelming show of hands against the motion of Rep. Hala.

The remaining sections passed with slight change and amendments and the bill passed third reading unanimously.

Seventy-fourth Day.

SATURDAY, May 23.

The Senate received copies of the license bill as amended by the House.

The Committee on Public Health reported favorably on the bill relating to the records of births, marriages and deaths.

Senator McCandless submitted the report of the Wide Tire Commission appointed at the special session. The commission recommends a law regulating the width of tires, and suggests that four years be given in which to make the proper changes. A bill to that effect was presented, read the first time and ordered printed.

Senator Waterhouse arose to a question of personal privilege and wanted to know why the Senate was slighted in

the invitation extended to certain members of the Legislature to accompany the Board of Health on its trip to Molokai. He considered the action of the Board discourteous, and announced that he would have something to say on the matter at a later day.

House amendments to the supplementary appropriation bill were accepted and the measure will now go to the President.

House bill No. 25, the income tax bill, passed the first reading and was read the second time by title. Some discussion arising as to the committee to which it should be referred, Senator McCandless moved that it be referred to a special committee of three.

Minister Damon said: "The bill seems to me of such great importance, and has created so much discussion, that it should be referred to a special committee of five members."

Senator McCandless' motion, as amended by Minister Damon, carried.

On motion of Senator Rice, Senate bill No. 50, relating to records of births, etc., with the report of the committee, was taken up on second reading. The bill was taken up section by section and passed without amendment until Section 19 was reached, when Minister Cooper offered an amendment that the certified copy of the record of birth, death or marriage "shall be competent evidence in any court of the facts therein contained." Passed. Section 21 was amended by adding the word "physician," thus making it obligatory for physicians to perform the duties of registrar without further compensation.

Section 6 was reconsidered and the "name of the physician attending, if any," added to the facts to be recorded concerning death.

Minister Cooper proposed that the bill go into effect on July 1, 1896. A section to that effect was added.

President Wilder announced the special committee on income tax, as follows: McCandless, Brown, Holstein, Horner and Wilcox.

Adjourned.

In the Supreme Court of the Hawaiian Islands.

March Term, 1896.

In the Matter of the Complaint against E. HELEKUNIHU, District Magistrate of Wailuku, Maui.

Before JUDD, C.J., FREAR and WHITING, JJ.

A District Magistrate removed from office for cause.

OPINION OF THE COURT, BY JUDD, C. J.

This is a complaint against E. Helekunihu, Esq., District Magistrate of Wailuku, Island of Maui, preferred by the Attorney General, charging that the respondent on the 18th of November last, in Wailuku, Maui, corruptly accepted a bribe of twenty-four dollars from one Lum Pak, under an agreement and understanding that in the exercise of respondent's function as District Magistrate he would acquit and discharge certain defendants in the case of the Republic of Hawaii vs. Lum Pak and others, charged with gaming, which case was then and there pending before him. The Attorney General prays that on proof of the charge the respondent be dismissed from office.

The evidence on the part of the prosecution is succinctly as follows: On the 17th of November an arrest of several Chinese had been made at Kahului on the charge of gaming. They were taken to Wailuku court house and soon after released on bail. Information came to the Sheriff of Maui, L. A. Andrews, that the District Magistrate was willing to take a bribe of twenty dollars in order to acquit these parties, who were to be tried the following day, Monday. (The case was on Monday postponed to the next day.) The sheriff thereupon marked twenty Hawaiian silver dollars by making a small shallow hole in the ball surmounting the crown over the coat of arms, entrusted them to Lum Pak, a Chinaman, who was instructed to offer them to the magistrate as a bribe. Captain of Police Lindsay accompanied the Chinaman to the magistrate's house and remained outside while the Chinaman went in, the door having been opened to him by the magistrate. After being in the house some minutes the Chinaman came out and reported that the judge would not take \$20. The money was accordingly returned to the sheriff, and with four more dollars similarly marked and the previously mentioned twenty dollars, Lum Pak, having heard from one Lee Long, a washerman, that the judge would take \$24, went again the next evening, Captain Lindsay following him and remaining in the yard under a mango tree some 25 feet distant from the judge's house. The witness, Lum Pak, says that the magistrate expressed his willingness to take the money and to acquit the Chinamen whose case was pending, and that he paid it to Mrs. Helekunihu, the respondent's wife, in the magistrate's presence, he counting the coin out into her hands. Officer Lindsay says that he saw the figures of these three persons from his standing-place outdoors, looking through the window and saw Lum Pak hand something to Mrs. Helekunihu in the manner described. This being reported to the sheriff, he obtained, on Tuesday, a warrant from the Circuit Judge for the arrest of the magistrate for receiving a bribe, and also a search warrant to find the marked money as evidence.

On reaching the house, in company with the Circuit Judge, and confronting Mr. and Mrs. Helekunihu with the charge, they severally denied all knowledge of that matter. After a search the sheriff found the marked money in an envelope in the back part of a bureau drawer in Mrs. Helekunihu's bedroom, the contents of the drawer being in confusion and concealing the envelope containing the money from the casual observer. On being told that the money was marked they both expressed sur-

prise, and were then shown the marks. But neither offered any explanation as to how the money came there, who brought it, or for what purpose, both expressing complete ignorance, though not claiming the money as their own when it was taken away by the sheriff.

On Wednesday, after the case of the magistrate on the charge of receiving a bribe had been called before the Circuit Judge and continued, it was said in behalf of Mr. Helekunihu and his wife that the money had been brought to their house by Lum Pak the evening in question as purchase money of a lot of dried fish that had come to Mrs. Helekunihu for sale, and which she had been retailing for some days past; and this is the defense they offered before us.

It is beyond all doubt true that twenty-four dollars were that evening delivered by the witness Lum Pak to Mr. and Mrs. Helekunihu. The purpose for which it was taken by them is not so well proved. The corroboration of Officer Lindsay is only to the fact of the payment, but not of its object, as he heard nothing of the conversation. We should hesitate before condemning a man of such good standing as Mr. Helekunihu on the evidence of a Chinese witness who was apparently acting as an informer and had a strong motive to ensnare the magistrate and win favor with the police. If it were true that he delivered the money to the magistrate's wife to pay for fish he had engaged, it was an innocent transaction, and there is no reason conceivable why both Mr. and Mrs. Helekunihu should not have immediately told the sheriff that a Chinaman had been there that evening and had given them twenty-four dollars for fish, and show the money, and thus avoid an unpleasant search for it. If the story were true, there was every motive on respondent's part to relate it to the sheriff or to the Circuit Judge who gave them every opportunity to do so before they were informed that processes had been taken out against him. Their silence when they were called upon to speak is inconsistent, in our opinion, with their innocence.

But they went further than merely keeping silence. Mr. Helekunihu denied that the Chinaman came the evening before and that the money in question had been received. And yet he admits that the Chinaman came to him Sunday evening and offered him the bribe, and Mrs. Helekunihu testified that she told her husband about the transaction the previous evening, and Officer Lindsay testified that Mr. Helekunihu was present when the Chinaman paid the money.

We refrain from commenting at length upon some parts of the testimony of Mr. and Mrs. Helekunihu which would make us doubt their sincerity, but many unessential details were woven into their narratives with the apparent intention of influencing the Court in their favor. We are not impressed with the argument of counsel that the respondent was on such terms of hostility with the sheriff that he did not feel called upon to make any explanation, but assumed the attitude of one accused, reserving his defense. They, however, did not decline to talk at all with the sheriff, but said repeatedly, "We know nothing about this thing."

It is a painful duty to have to pass in condemnation upon the respondent, a man who has held many offices for a long series of years and has had the confidence of several successive administrations, but men of good intentions but of not very strong wills sometimes yield to temptations when they feel confident that detection will not follow. We have an abiding conviction that the respondent is one of this class, and that his offense is proven, and accordingly adjudge and order that he be dismissed from the office of District Magistrate of Wailuku.

Attorney General Smith for prosecution. W. A. Kinney for respondent. Honolulu, May 14, 1896.

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